IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 19693 of 2004

Between:

M.Ibrahim, S/o.M.Fakruddin Sab,
APSRTC, NO.1915/602, Bhagyanagar, Colony, Ananthapur.

..... PETITIONER

AND

1. The Depot Manager, APSRTC, Ananthapur District, Ananthapur.
2. The Deputy Chief Traffic Manager, APSRTC., Ananthapur Region,

Ananthapur.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or orders, direction more particularly one in the nature of writ of Mandamus, declaring the proceedings No. 03/2(26)/93-ATP dated 24-12-1993 of the 1st respondent and rejecting the appeal through proceedings No.St/19(13)/94 Dy. CTM-A dated
31-1-1998 of the 2nd respondent as illegal, arbitrary, unjustified, unsustainable, contrary to law and violative of the Article 14 of the Constitution of India and set-aside the same and consequently direct the respondents to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner: MR.P.VARA PRASAD RAO

Counsel for the Respondents.1 and 2:MR.P.VINAYAKA SWAMY, STANDING

COUNSEL FOR APSRTC.

The Court, at the stage of admission, made the following:

O R D E R:

The petitioner is working as a Driver in the respondent- Corporation. A charge memo was issued to him on 19-11-1993 for causing accident while driving the bus. The petitioner submitted his explanation. The grievance of the petitioner is that the first respondent, without considering the circumstances explained by him through his explanation and without conducting any enquiry, passed the impugned order dated 24-12-1993 by deferring annual increment for a period of one year with cumulative effect. The petitioner preferred an appeal before the second respondent challenging the order of the first respondent, and it was rejected on 31-01-1998. The petitioner, therefore, approached this Court through this writ petition to declare the proceedings of the first and second respondents dated 24-12-1993 and 31-01-1998 as illegal, arbitrary and violative of the principles of natural justice.

The petitioner contends that the punishment imposed on him is a major penalty. It cannot be imposed without conducting any enquiry. The first respondent, without conducting any enquiry, imposed the said punishment. Therefore, it amounts to violation of the rules as well as the principles of natural justice. The respondents did not place any material to show whether any enquiry was conducted subsequent to the explanation filed by the petitioner. In the absence of such material, it has to be held that the first respondent failed to follow the procedure prescribed under the rules and regulations. Therefore, the impugned order dated 24-12-1993 is not

sustainable under law.

Having regard to the facts and circumstances of the case, I am inclined to modify the punishment of deferring of annual increment for a period of one year with cumulative effect imposed on the petitioner into one of deferring of annual increment for a period of one year without cumulative effect.

The Writ Petition is accordingly disposed of. No order as to costs.

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28-10-2004.

Lrkm.

To

1. The Depot Manager, APSRTC, Ananthapur District, Ananthapur.
2. The Deputy Chief Traffic Manager, APSRTC., Ananthapur Region,

Ananthapur.

3. 2CD copies.